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Attorneys for Defendant Washington Mutual Bank

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

<p>SIDNEY SCHOLL and FELTON A. SPEARS, )  JR., on behalf of themselves and all others )  similarly situated, )    Plaintiffs, )    v. )    WASHINGTON MUTUAL, INC., a Washington )  corporation; WASHINGTON MUTUAL BANK, )  FA (aka WASHINGTON MUTUAL BANK); )  FIRST AMERICAN EAPPRAISEIT, a Delaware )  corporation; and LENDER'S SERVICE, INC., )    Defendants. )</p>	<p>) Case No. 5:08-cv-00868 (RMW)  )  ) CLASS ACTION  )  ) <b>DECLARATION OF STEPHEN M.</b>  ) <b>RUMMAGE IN OPPOSITION TO</b>  ) <b>PLAINTIFFS' MOTION TO STAY</b>  ) <b>PROCEEDINGS</b>  )  ) Date: July 25, 2008  ) Time: 9:00 a.m.  ) Department: Courtroom 6, 4th Floor  )  )  )</p>
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I, STEPHEN M. RUMMAGE, declare as follows:

1. I am an attorney licensed to practice in the State of Washington and a partner with Davis Wright Tremaine LLP, counsel of record for defendant Washington Mutual Bank ("WMB") in this action. I make this declaration in support of WMB's Memorandum in Opposition to Plaintiffs' Motion to Stay Proceedings. I have personal knowledge of the matters stated in this declaration and could competently testify to them if called as a witness.

2. On April 30, 2008, Washington Mutual, Inc. ("WMI"), WMB and Plaintiffs Sidney

1 Scholl and Felton Spears executed a stipulation in which WMI represented that it was not  
2 involved in the conduct set forth in either Plaintiffs' Initial or Amended Complaint, and in which  
3 Plaintiffs agreed to voluntarily dismiss WMI from the lawsuit. Attached hereto as Exhibit A is a  
4 true and correct copy of the stipulation.

5 3. On May 6, 2008, four days *after* the Defendants filed their Motions to Dismiss,  
6 counsel for all parties held a telephonic conference pursuant to Rule 26(f). During that  
7 conference, Plaintiffs' counsel proposed that the parties hold discovery in abeyance pending  
8 disposition of Defendants' motions to dismiss. All Defendants agreed. Two days later, on May  
9 8, 2008, Plaintiffs circulated a draft Joint Case Management Conference Statement, which  
10 provided that discovery would begin only after the Court ruled on the Motions to Dismiss.  
11 Attached hereto as Exhibit B is a true and correct copy of the draft Joint Case Management  
12 Conference Statement as drafted by Plaintiffs' counsel and circulated to counsel for Defendants  
13 for our input.

14 4. When I downloaded Plaintiffs' Motion to Stay from the ECF system on June 20,  
15 2008, I was surprised to see a reference to written discovery having been "propounded," as I was  
16 unaware of any such discovery. My office received Plaintiffs' First Set of Requests for  
17 Production of Documents to Defendants on June 24, 2008. Attached hereto as Exhibit C is a  
18 true and correct copy of the cover letter dated June 19, 2008, which enclosed these initial  
19 discovery requests, and which bears my secretary's handwritten notation of the date of receipt.

20 5. I am one of the counsel to WMI (and court-appointed "contact counsel" for all  
21 Defendants) in the various lawsuits that the JPML has transferred to the Western District of  
22 Washington for coordinated pretrial proceedings. Through that representation, I am also aware  
23 of the nature of the issues in *Wertz v. Washington Mutual Bank*, a lawsuit brought against WMB  
24 by an individual appraiser in the United States District Court for the Eastern District of  
25 California. Of the 24 lawsuits that the JPML has addressed in MDL 1919 to date, including  
26 *Wertz* and this case, it transferred the 22 securities, derivative and ERISA cases, and it refused to  
27 transfer *Wertz* and this case. As far as I know, *Wertz* and this case are the only two cases  
28 considered by the JPML that do not involve claims focusing on WMI's financial condition.



CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Michael David Braun:	<a href="mailto:service@braunlawgroup.com">service@braunlawgroup.com</a>
Christopher J. Clark	<a href="mailto:cjclark@dl.com">cjclark@dl.com</a>
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Richard F. Hans	<a href="mailto:rhans@tpw.com">rhans@tpw.com</a>
Margaret Anne Keane:	<a href="mailto:mkeane@dl.com">mkeane@dl.com</a>
Joseph N. Kravec, Jr.:	<a href="mailto:jnk@ssem.com">jnk@ssem.com</a>
Kris Hue Chau Man:	<a href="mailto:kman@dl.com">kman@dl.com</a>
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Robert Ira Spiro:	<a href="mailto:ira@spiromoss.com">ira@spiromoss.com</a>
Kevin C. Wallace	<a href="mailto:kwallace@dl.com">kwallace@dl.com</a>

and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

Kerry Ford Cunningham  
 Patrick J. Smith  
 THATCHER PROFITT & WOOD LLP  
 Two World Financial Center  
 New York, NY 10281

DATED this 3<sup>rd</sup> day of July, 2008.

Davis Wright Tremaine LLP  
 Attorneys for Def. Washington Mutual Bank

By /s/ Stephen M. Rummage  
 Stephen M. Rummage, *pro hac vice*  
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DAVIS WRIGHT TREMAINE LLP

# **Exhibit A**

## STIPULATION

THIS STIPULATION (the "Stipulation") is entered into this 30th day of April, 2008, between and among WASHINGTON MUTUAL, INC., a Washington corporation ("WMI"), WASHINGTON MUTUAL BANK, a federal savings association ("WMB" and together with WMI, the "WaMu Defendants"), SIDNEY SCHOLL, an individual ("Scholl") and FELTON A. SPEARS, JR., an individual ("Spears", and together with Scholl, "Plaintiffs").

## RECITALS

A. On or about February 8, 2008, Plaintiffs filed a complaint on behalf of themselves and all others similarly situated (the "Initial Complaint") against WMI, First American eAppraiseIT ("EA") and Lender's Service, Inc. ("LSI") in the United States District Court for the Northern District of California, *Spears, et al. v. Washington Mutual, Inc., et al.*, Case No. C08 00868 HRL (the "Lawsuit").

B. On or about March 28, 2008, Plaintiffs filed and served an amended complaint, adding WMB as a defendant in the Lawsuit (the "Amended Complaint").

C. Following Plaintiffs' filing and service of the Amended Complaint, the WaMu Defendants and Plaintiffs have agreed to the dismissal of WMI from the Lawsuit, subject to the terms and conditions set forth herein.

## TERMS

1. **Representation Regarding WMI.** WMI hereby represents that it is a Washington corporation with its principal offices in Seattle, Washington. WMI's business is to act as a holding company. WMI does not have any business or contact with retail customers. WMI does not originate or service loans, does not conduct or obtain appraisals, does not take deposits, and does not have any retail operations anywhere in the United States. WMI has only 16 employees, all but one of whom are in Seattle, Washington. WMI therefore represents to the best of its knowledge, information and belief that it was not a participant in the conduct set forth in Plaintiffs' Initial or Amended Complaints.


2. **Dismissal Of WMI From Lawsuit; Tolling.** Upon receipt of an executed copy of this Stipulation, and in no event later than Thursday, May 1, 2008, Plaintiffs shall file a notice of dismissal of all claims against WMI in the Lawsuit pursuant to Fed. R. Civ. P. 41(a)(1), substantially in the form attached hereto as **Exhibit A**. The parties agree that this stipulation is without costs and without prejudice, either to Plaintiffs' or putative class members' ability to later assert claims against WMI in the Lawsuit or a separate proceeding, or to WMI's defenses to such claims, including, among others, lack of personal jurisdiction and failure to deliver an effective CLRA notice to WMI. To this end, the parties agree that the claims of the Plaintiffs and the putative Class members asserted against WMI in the Initial Complaint and the Amended Complaint shall be tolled for the duration of the Lawsuit.

3. **Authority.** Each of the persons signing this Stipulation on behalf of a party personally warrants he or she has the authority to sign the Stipulation on behalf of the indicated party and thereby bind that party to the Stipulation.

SO STIPULATED:

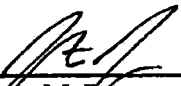
BRAUN LAW GROUP, P.C.  
Attorneys for Plaintiffs Sidney Scholl and  
Felton A. Spears, Jr.

Dated: April 30, 2008

By:   
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DAVIS WRIGHT TREMAINE LLP  
Attorneys for Defendants Washington Mutual, Inc.  
and Washington Mutual Bank

Dated: April 30, 2008

By:   
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## EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

SIDNEY SCHOLL and FELTON A. SPEARS, )	
JR., on behalf of themselves and all others )	Case No. 5:08-cv-00868 (HRL)
similarly situated, )	
	) CLASS ACTION
Plaintiffs, )	
	) NOTICE OF VOLUNTARY DISMISSAL OF
v. )	DEFENDANT WASHINGTON MUTUAL,
	) INC.
WASHINGTON MUTUAL, INC., a Washington )	
corporation; WASHINGTON MUTUAL BANK, )	
FA (aka WASHINGTON MUTUAL BANK); )	
FIRST AMERICAN EAPPRAISEIT, a Delaware )	
corporation; and LENDER'S SERVICE, INC., )	
	)
Defendants. )	

NOTICE IS HEREBY GIVEN that pursuant to Fed. R. Civ. P. 41(a)(1), Plaintiffs voluntarily dismiss the above-captioned action without prejudice against defendant Washington Mutual, Inc. Because no answer or motion for summary judgment has been served on Plaintiffs in this action, Plaintiffs' right to voluntary dismissal is absolute and dismissal is effective upon the filing of this Notice.

DATED this \_\_\_\_\_ day of April, 2008.

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BRAUN LAW GROUP, P.C.

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*Attorneys for Plaintiffs*

## **Exhibit B**

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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

SIDNEY SCHOLL and FELTON A.  
SPEARS, JR., on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

WASHINGTON MUTUAL BANK, FA (aka  
WASHINGTON MUTUAL BANK); FIRST  
AMERICAN EAPPRAISEIT, a Delaware  
corporation; and LENDER'S SERVICE,  
INC.,

Defendants.

**CASE NO.: 5:08-CV-00868 (HRL)**

**CLASS ACTION**

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT**

1 The parties to the above-entitled action jointly submit this Case Management Conference  
2 Statement pursuant to Fed. R. Civ. P. 26 and this Court's Scheduling Order issued on February 2,  
3 2008..

4  
5 **I. JURISDICTION AND SERVICE**

6 **Plaintiffs:**

7 Jurisdiction is proper under 28 U.S.C. §1331 (federal question jurisdiction) and  
8 §1367(supplemental jurisdiction). Plaintiffs assert a federal claim under RESPA, 12 U.S.C. §2607,  
9 and supplemental state law claims. Jurisdiction of this Court is alternatively proper under 28 U.S.C.  
10 §1332(d)(2). Plaintiffs are citizens of the State of California and reside in Sonoma and San Jose,  
11 California and seek damages on behalf of themselves and the proposed Class that collectively  
12 exceed \$5,000,000, exclusive of interest and costs. Defendant Washington Mutual Bank, FA is  
13 incorporated in the State of Washington but has retail lending offices in California through which  
14 the loans at issue in this litigation were conducted. Defendant First American eAppraiseIT is  
15 incorporated in the State of Delaware and has its principal place of business in Poway, California.  
16 Defendant Lender's Service, Inc. has two of its three main operation centers located in Santa Ana,  
17 California and Sacramento, California.

18 All parties have been served.

19 **Defendants:**

20  
21 **II. FACTS**

22 **Plaintiffs:**

23 On February 8, 2008, Plaintiffs filed this action against Defendants Washington Mutual,  
24 Inc., First American eAppraiseIT ("EA"), and Lender's Service, Inc., ("LSI") (collectively  
25 "Defendants") on their own behalf and on behalf of a putative class consisting of all consumers in  
26 California and throughout the United States who, on or after June 1, 2006, received home loans  
27  
28

1 from WaMu, in connection with appraisals that were obtained through either EA or LSI.<sup>1</sup> In  
2 essence, Plaintiffs allege that each WaMu borrower was charged for a credible, lawful appraisal, but  
3 as a result of the arrangement between WaMu, EA and LSI, no credible, lawful appraisal was  
4 performed. WaMu borrowers (*i.e.*, Plaintiffs and the Class) were damaged thereby.

5 WaMu is, among other things, a consumer lender that originates and services home loans.  
6 Plaintiffs, and the putative class, each have obtained home loans from WaMu. Pursuant to its  
7 standard practice, prior to issuing a home loan, WaMu requires the property to be professionally  
8 appraised, ostensibly to ensure that the fair market value of the property equals or exceeds the value  
9 of the loan.

10 A real estate appraisal is supposed to be an independent, objective, impartial, unbiased,  
11 credible professional estimate of the fair market value of a particular property. A lender (in this  
12 case, WaMu) typically undertakes to procure the appraisal on behalf of itself and the borrower with  
13 the cost of the appraiser's services ultimately borne by the borrower.

14 Appraisers and appraisal reviewers follow federally accepted standards, the Uniform  
15 Standards of Professional Appraisal Practice ("USPAP"), which govern the ethical and legal aspects  
16 of the appraisal undertaking, assessment, reporting and review process, and establish the minimum  
17 standards for performing a "credible appraisal". These USPAP standards are also adopted by most,  
18 if not all, states, including California. Also, they are part of the contractual undertakings expressly  
19 stated in the Uniform Residential Appraisal Report, which is the standard form that appraisers use  
20 for their appraisal reports and which were used for the WaMu loans that are the subject of this  
21 Complaint.

22 In or about June 2006, WaMu entered an agreement, conspiracy or scheme with EA and LSI,  
23 two purportedly independent appraisal companies, to handle all of WaMu's home loan appraisals.  
24 As part of this arrangement, EA and LSI received appraisal requests from WaMu, procured local  
25 appraisers to perform the appraisals, reviewed the appraisal reports, and requested at the behest of  
26

---

27 <sup>1</sup> On March 28, 2008, Plaintiffs filed their first amended complaint ("FAC") adding  
28 Washington Mutual Bank, FA ("WaMu") as a defendant. Plaintiffs have since dismissed  
Washington Mutual, Inc. without prejudice.

1 WaMu that the appraisers make changes before finalizing the reports and providing them to WaMu  
 2 to transmit to the borrowers. In reality, WaMu, with the full, unfettered cooperation of EA and LSI,  
 3 controlled the process by which individual appraisers were selected, how home appraisals were  
 4 performed and ultimately the values at which properties were appraised. EA and LSI consulted  
 5 directly with WaMu and its loan officers to establish the property values they desired before EA and  
 6 LSI (and its appraisers) finalized the appraisal reports. This conspiratorial conduct allowed WaMu  
 7 to direct appraisers to artificially inflate home values and thus provide false appraisals in order to  
 8 qualify more people for higher value loans. WaMu would then aggregate and package these home  
 9 loans and sell them in the financial markets for a substantial profit.

10 As part of the scheme, EA and LSI each received millions of dollars in appraisal fees from  
 11 unsuspecting WaMu borrowers who, despite paying for what should have been credible appraisals  
 12 (*i.e.*, done in compliance with applicable legal and professional standards so as to provide an  
 13 independent, unbiased, and objective appraisal of the fair market value of their property), they  
 14 instead unwittingly received biased appraisals that were neither independent, objective or in  
 15 compliance with legal and professional standards. Each borrower was charged for a credible, lawful  
 16 appraisal, but as a result of the arrangement between WaMu, EA and LSI, no credible, lawful  
 17 appraisal was performed. WaMu borrowers (*i.e.*, Plaintiffs and the Class) were damaged thereby.

18 **[Defendants' Insert]**

19  
 20 **III. LEGAL ISSUES**

21 **Plaintiffs:**

22 Plaintiffs allege that Defendants' conduct violates, or is in violation of the following:

- 23 (1) Real Estate Settlement Procedures Act, 12 U.S.C. section 2607.
- 24 (2) The unlawful, unfair and fraudulent prongs of California's Business and Professions  
 25 Code §17200, *et seq.* (the "UCL").
- 26 (3) The Consumer Legal Remedies Act ("CLRA"), California Civil Code §1750, *et seq.*
- 27 (4) Breach of Contract.
- 28 (5) Unjust Enrichment.

1 [Defendants' Insert]

2  
3 **IV. MOTIONS**

4 On May 2, 2008, all three Defendants filed motions to dismiss Plaintiffs' FAC, which are  
5 scheduled for hearing on July 15, 2008.

6 Plaintiffs anticipate filing motions for class certification and summary judgment.

7  
8 [Defendants' Insert]

9  
10 **V. AMENDMENT OF PLEADINGS**

11 Although parties do not anticipate amending the pleadings at this time, they have agreed to  
12 bring any such amendment within three months of the Court's decision sustaining Plaintiffs'  
13 complaint. Parties further reserve their right to bring such an amendment at a later date for good  
14 cause.

15  
16 **VI. EVIDENCE PRESERVATION**

17 **Plaintiffs:**

18 Although each Defendant has separately represented that a 'litigation hold' has been put into  
19 place, the scope of these holds is unclear. Parties are continuing to discuss the parameters of the  
20 litigation holds with respect to preserving evidence relevant to this litigation. If parties are unable to  
21 reach an understanding that provides Plaintiffs with sufficient comfort that relevant evidence is  
22 being properly preserved, then Plaintiffs intend to move for a formal preservation order.

23 Plaintiffs have since the inception of this lawsuit either provided documents relevant to this  
24 litigation to their undersigned counsel or have acknowledged that they will retain any such relevant  
25 evidence.

26 [Defendants' Insert]

1 **VII. DISCLOSURES**

2 Parties have agreed to adjourn the deadline on which to exchange initial disclosures to thirty  
3 days from a Court order denying Defendants' motions to dismiss and/or sustaining Plaintiffs'  
4 Complaint.

5  
6 **VIII. DISCOVERY**

7 No formal discovery has been taken to date. Upon denial of Defendants' motions to dismiss,  
8 parties have agreed to a comprehensive discovery schedule attached hereto as Exhibit A. Parties  
9 have not agreed to modify any of the discovery rules, but reserve their rights to seek such an  
10 amendment at a later date if the need arises.

11  
12 **IX. CLASS ACTIONS**

13 After a sufficient amount of time to conduct discovery, Plaintiffs intend to move for class  
14 certification. Currently, Defendants intend to oppose such a motion. Parties have agreed on a class  
15 discovery and briefing schedule. See Exhibit A.

16  
17 **X. RELATED CASES**

18 On or about November 28, 2007, Defendants moved to transfer this action to the Western  
19 District of Washington pursuant to 28 U.S.C. §1407 and Rule 7.2 of the Rules of Procedure of the  
20 Judicial Panel on Multi District Litigation. In so doing, Defendant WaMu sought to transfer,  
21 coordinate and/or consolidate this matter with eighteen other actions. On March 3, 2008, Plaintiffs'  
22 counsel was informed that this matter would not be related to the other actions, nor transferred to  
23 the Western District of Washington. A Filing to that effect was made in this Court on March 3,  
24 2008.

25  
26 **XI. RELIEF**

27 **Plaintiffs:**

28 Plaintiffs seek the following relief:



- (1) An order certifying that this action is properly brought and may be maintained as a class action, that Plaintiffs be appointed Class Representative and Plaintiffs' counsel be appointed Class Counsel.
- (2) Compensatory damages.
- (3) Treble damages as to the RESPA violation.
- (4) Restitution in such amount that Plaintiffs and all Class members paid for their home appraisals, or the profits, charges and fees Defendants obtained for them.
- (5) An order enjoining Defendants from maintaining and utilizing WaMu's Proven Appraiser List, or any other mechanism by which WaMu has control over the appraiser selected to perform WaMu's home appraisals or value the appraiser sets for the subject property.
- (6) An order awarding Plaintiffs their costs of suit, including pre and post-judgment interest.
- (7) An order awarding Plaintiffs' counsel's attorneys' fees.
- (8) An order requiring an accounting for, and imposition of a constructive trust upon, all monies received by Defendants as a result of the unfair, fraudulent and unlawful conduct alleged herein.
- (9) Such other and further relief as may be deemed necessary or appropriate.

**[Defendants' Insert]**

## **XII. SETTLEMENT AND ADR**

Parties agree that settlement discussions are currently premature. If and when settlement discussions become appropriate, parties have agreed to the following ADR process: \_\_\_\_\_ [TO BE COMPLETED BY PARTIES]

1 **XIII. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

2  
3 [TO BE COMPLETED BY PARTIES]  
4

5 **XIV. OTHER REFERENCES**

6 This matter is not suitable for reference to binding arbitration or a special master. This  
7 matter was previously referred to the Judicial Panel for Multidistrict Litigation. The Panel  
8 determined this matter was not related to other matters then pending before the Panel. See Part X.  
9

10 **XV. NARROWING OF ISSUES**

11 Defendants have moved to dismiss Plaintiffs' FAC. Parties further anticipate moving for  
12 Summary Judgment at a later date. At relevant procedural junctures throughout the litigation,  
13 parties will in good faith continue to explore the possibility of narrowing issues whenever possible.  
14

15 **XVI. EXPEDITED SCHEDULE**

16 See Chart of Dates and Deadlines at Exhibit A.  
17

18 **XVII. SCHEDULING**

19 See Chart of Dates and Deadlines at Exhibit A.  
20

21 **XVIII. TRIAL**

22 Plaintiffs have requested a jury trial with respect to claims that may be so adjudicated.  
23 Plaintiffs anticipate a trial length of \_\_\_\_\_.

24 **[Defendants' Insert]**  
25

26 **XIX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

27 **Plaintiffs:**

28 Plaintiffs have filed a Certification of Interested Entities or Persons pursuant to Local Rule

1 3-16, identifying the following persons or entities:

- 2 1. SIDNEY SCHOLL, plaintiff;
- 3 2. FELTON A. SPEARS, JR., plaintiff;
- 4 3. WASHINGTON MUTUAL BANK, FA (aka WASHINGTON MUTUAL BANK),
- 5 defendant;
- 6 4. FIRST AMERICAN EAPPRAISEIT, defendant; and
- 7 5. LENDER'S SERVICE, INC., defendant.

8

9 **[Defendants' Insert]**

10

11 **XX. SUCH OTHER MATTERS AS MAY FACILITATE THE JUST, SPEEDY AND**

12 **INEXPENSIVE DISPOSITION OF THIS MATTER**

13 None.

14

15 **XXI. PLAINTIFFS' STATEMENT PURSUANT TO L. R. 16-9 (b)**

16 This is a class action against Defendants seeking relief on behalf of Plaintiffs and a class of  
 17 all consumers in California and throughout the United States who, on or after June 1, 2006, received  
 18 home loans from WaMu, in connection with appraisals that were obtained through either EA or LSI.  
 19 Plaintiff will seek class certification pursuant to Fed. R. Civ. P 23(a) and (b)(3). Alternatively,  
 20 Plaintiffs may also seek certification pursuant to Fed. R. Civ. P 23(b)(2).

21 There are thousands of class members who are geographically dispersed throughout the  
 22 United States, including California, making the class sufficiently numerous and making joinder  
 23 impracticable.

24 Common questions of law or fact exist as to all members of the Class. The appraisals are  
 25 provided in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP")  
 26 which are incorporated into Federal and California law. 12 C.F.R. § 34.44; California Business and  
 27 Professions Code §11319. The appraisers use standard form contracts and Plaintiffs have alleged a  
 28 common course of conduct. Common questions predominate over any questions affecting only

1 individual class members. These common legal or factual questions include:

- 2 A. Whether WaMu entered into an agreement with EA and/or LSI to procure appraisal
- 3 services that were not performed by independent, unbiased appraisers as required by
- 4 law;
- 5 B. Whether Defendants had and have policies, practices, or procedures that undermine
- 6 the possibility that Plaintiffs and the Class received credible appraisals done in
- 7 compliance with USPAP and applicable law;
- 8 C. Whether WaMu, through its agreement with EA and/or LSI, was able to control the
- 9 appraisal process, by its loan origination personnel or otherwise, by having either EA
- 10 or LSI provide higher appraised values for homes than EA's or LSI's appraiser had
- 11 initially concluded or than was the actual fair market value of the home;
- 12 D. Whether EA and/or LSI agreed with WaMu to provide WaMu with appraisers who
- 13 were selected by WaMu to be on WaMu's Proven Appraiser List (or the WaMu
- 14 Select panel);
- 15 E. Whether WaMu controlled and/or manipulated the pool of appraisers on WaMu's
- 16 Proven Appraiser List;
- 17 F. Whether the agreements between WaMu, EA and LSI constitutes a civil conspiracy;
- 18 G. Whether Defendants' actions described herein violate California's Business and
- 19 Professions Code, sections 17200 *et seq.*;
- 20 H. Whether Defendants' actions violate California's Consumer Legal Remedies Act,
- 21 California Civil Code sections 1750 *et seq.*;
- 22 I. The appropriate measure of damages and/or restitution; and
- 23 J. Whether Defendants breached their contracts with Plaintiffs and the Class.

24

25 Plaintiffs' claims are typical of the claims of the Class, in that Plaintiffs took out home

26 mortgage loans with Defendant WaMu and their home appraisals were procured for them by WaMu

27 through EA and/or LSI. Plaintiffs are no different in any relevant respect from any other Class

28 member.

1 Plaintiffs are adequate representatives of the Class because their interests do not conflict  
 2 with the interests of the class members they seek to represent, and they have retained counsel  
 3 competent and experienced in conducting complex class action litigation.

4 Finally, a class action is superior to other available means for the fair and efficient  
 5 adjudication of this dispute. The damages suffered by each individual class member likely will be  
 6 relatively small, especially given the burden and expense of individual prosecution of the complex  
 7 litigation necessitated by Defendants' conduct. Thus, it would be virtually impossible for the class  
 8 members individually to effectively redress the wrongs done to them. Moreover, even if the class  
 9 members could afford individual actions, it would still not be preferable to class wide litigation.  
 10 Individualized actions present the potential for inconsistent or contradictory judgments. By contrast,  
 11 a class action presents far fewer management difficulties and provides the benefits of single  
 12 adjudication, economies of scale, and comprehensive supervision by a single court.

13 Plaintiffs intend to move for class certification according to the schedule set forth in Exhibit

14 A.

15  
 16 Dated: May \_\_, 2008

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**EXHIBIT A****CHART OF DATES AND DEADLINES**

<b>EVENT</b>	<b>PROPOSED DEADLINE</b>
Initial Disclosures	4 weeks after Motion to Dismiss
Amend Pleadings	3 months after Motion to Dismiss (w/o waiver of right to move to amend on good cause)
Certification Discovery Cutoff (Non-Expert)	6 months after Motion to Dismiss
Motion for Class Certification	6 ½ months after Motion to Dismiss
Merits Discovery Cutoff	6 months after Class Certification ruling
Mediation	
Expert Reports - Merits	15 days after close of Merits - Initial Report 45 days after close of Merits - Supplemental
Expert Discovery Cutoff - Merits	75 days after close of Merits
Dispositive Motion Cutoff	90 days after close of Merits
Other Motion Cutoff (other than Motions in Limine)	120 days after close of Merits
Pretrial Conference (hearing on Motions in Limine, agreed jury instructions and verdict forms, proposed voir dire questions)	150 days after close of Merits
Pre-Trial Briefs	180 days after close of Merits
Trial Date	200 days after close of Merits



## **Exhibit C**

SPECTER SPECTER EVANS & MANOGUE, P.C.

June 19, 2008

File No. 27029

Received June 24  
Due July 24

Ticked ✓  
JC

*via U.S. First Class Mail*

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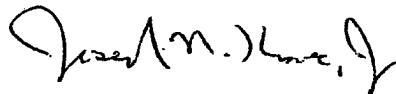
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Re: *Felton A. Spears, Jr., et al. v. Washington Mutual, Inc. et al.*  
Case No.: 5:08-cv-00868 (N.D. CA)

Dear Counsel:

Enclosed is Plaintiffs' First Set of Requests for Production of Documents to Defendants in the above-referenced action.

Sincerely,



Joseph N. Kravec, Jr.  
JNK,JR./mzc

Enclosure

cc: Michael D. Braun, Esquire (via Electronic Mail w/enc.)  
Ira Spiro, Esquire (via Electronic Mail w/enc.)  
Janet Lindner Spielberg, Esquire (via Electronic Mail w/enc.)